

**Remarks**

The Examiner allowed claims 14-16, 19, 21-27, 29, and 31, rejected claims 1 and 9-12 under 35 USC § 102(e) as being anticipated by Costanzo (US 6,758,323), objected to claims 2-6 and 8, and withdrew claims 7, 13, 17, 18, 20, 28, and 30 from consideration as drawn to non-elected species. The rejection is traversed. Claims 1-31 remain in the application.

In his § 102(e) anticipation rejection of independent claim 1 and dependent claims 9-12, the Examiner stated that Costanzo discloses a similar device comprising: a first conveyor belt (104) that includes a plurality of article-supporting rollers; and a second conveyor belt (106) arranged to run at a second velocity. MPEP § 2131 provides: "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Contrary to the Examiner's suggestion that Costanzo discloses all the limitations, Costanzo does not disclose a first conveyor belt running along a conveying path at a first velocity and having article-supporting rollers arranged to direct articles toward a first side of the first conveyor belt and a second belt arranged to run at a second velocity parallel to the first conveyor belt proximate an opposite second side of the first conveyor belt, in which the first velocity (of the first conveyor belt with rollers) is greater than the second velocity (of the other belt). As described in Costanzo at col. 7, ll. 7 *et seq.*, and shown in FIG. 8, the article-supporting rollers direct articles toward, not away from, the side proximate the other belt and the speed of the second belt (106) is greater than the speed of the first belt (104). Therefore, the rejection of claims 1 and 9-12 is unsupported by the art and should be withdrawn.

Applicant respectfully requests reconsideration of the rejection of claims 1 and 9-12 and the objection to claims 2-6 and 8 in view of these remarks and their allowance. In view of the fact that each of the withdrawn claims 7, 13, 17, 18, 20, 28, and 30 depends from independent claim 1 or already allowed independent claim 14 or 24, applicant requests that the withdrawn claims be considered and allowed.

This amendment is being sent within three months of the Office Action so no extension of time petition fee should be due. Authorization to charge any fees deemed necessary for consideration of this response to Deposit Account No. 12-0090 is hereby given. If the Examiner thinks a telephone conference would expedite the prosecution of this application, he is invited to call the undersigned attorney.

Respectfully submitted,  
Mark Costanzo

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